UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/766,026	01/29/2004	Jun Kakuta	121.1063	2662

21171   7590   09/29/2009
STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

EXAMINER
FEARER, MARK D

ART UNIT	PAPER NUMBER
2443	

MAIL DATE	DELIVERY MODE
09/29/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Application No.	Applicant(s)
	10/766,026	KAKUTA ET AL.
Office Action Summary	Examiner	Art Unit	
	MARK D. FEARER	2443	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>13 July 2009</u>.
2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.
3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-11</u> is/are pending in the application.
    4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5)☐ Claim(s) _____ is/are allowed.
6)☒ Claim(s) <u>1-5 and 7-11</u> is/are rejected.
7)☒ Claim(s) <u>6</u> is/are objected to.
8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.
10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.
    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
    a)☐ All   b)☐ Some * c)☐ None of:
      1.☐ Certified copies of the priority documents have been received.
      2.☐ Certified copies of the priority documents have been received in Application No. _____.
      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)
2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3)☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.
4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.
5)☐ Notice of Informal Patent Application
6)☐ Other: _____.

DETAILED ACTION

1. Applicant's Request for Continued Examination filed 13 July 2009 is acknowledged.

2. Applicant's Amendment filed 13 July 2009 is acknowledged.

3. Claim 1 has been amended.

4. Claim 11 is new.

5. Claims 1-11 are pending in the present application.

Continued Examination Under 37 CFR 1.114

6. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114.

Claim Objections

7. Claim 6 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claim Rejections - 35 USC § 102

8.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section
> 122(b), by another filed in the United States before the invention by the applicant for
> patent or (2) a patent granted on an application for patent by another filed in the United
> States before the invention by the applicant for patent, except that an international
> application filed under the treaty defined in section 351(a) shall have the effects for
> purposes of this subsection of an application filed in the United States only if the
> international application designated the United States and was published under Article
> 21(2) of such treaty in the English language.

9.   Claim 11 is rejected under 35 U.S.C. 102(e) as being anticipated by Cook et al.

(US 6842604 B1).

        Consider claim 11. Cook et al. discloses an apparatus for delivering to a plurality

of user terminals, comprising: receiving received information from a user terminal (Cook

et al., column 2 lines 14-36); obtaining identification information identifying a user

terminal to which the received information is to be delivered, and an index assigned to

the received information (Cook et al., column 3 line 49 – column 4 line 4); obtaining

profile information from a user terminal requiring delivery of the received information

(Cook et al., column 3 line 49 – column 4 line 4); storing the profile information

according to the identification information at each index; updating the received

information (Cook et al., column 4 line 52 – column 5 line 3); and receiving a determined

order of delivery of the updated information to the plurality of the user terminals at each

index when the received information is updated (Cook et al., column 4 lines 33 – 51).

Claim Rejections - 35 USC § 103

10.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or
> described as set forth in section 102 of this title, if the differences between the subject
> matter sought to be patented and the prior art are such that the subject matter as a
> whole would have been obvious at the time the invention was made to a person having
> ordinary skill in the art to which said subject matter pertains. Patentability shall not be
> negatived by the manner in which the invention was made.

The factual inquiries set forth in Graham v. John Deere Co., 383 U.S. 1, 148 USPQ 459

(1966), that are applied for establishing a background for determining obviousness under 35

U.S.C. 103(a) are summarized as follows:

> 1.   Determining the scope and contents of the prior art.
> 2.   Ascertaining the differences between the prior art and the claims at issue.
> 3.   Resolving the level of ordinary skill in the pertinent art.
> 4.   Considering objective evidence present in the application indicating obviousness
>   or nonobviousness.

This application currently names joint inventors. In considering patentability of the
claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various
claims was commonly owned at the time any inventions covered therein were made absent any
evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out
the inventor and invention dates of each claim that was not commonly owned at the time a later
invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c)
and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

11.   Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Horvitz

(US 20020087649 A1) in view of DeSimone et al. (US 6212548 B1) and in further view

of Shimada (US 7203760 B2).

Consider claim 1. Horvitz discloses an apparatus for delivering information

comprising a storage unit for storing groups of data (("Classification may vary

depending on different folders in which messages are stored, as well as other scaling

and control rules.") paragraph 0252), identification data (("For example, one or more

profiles (not shown) may be selected or modified based on information about a user's

location as can be provided by a global positioning system (GPS) subsystem, on

information about the type of device being used and/or the pattern of usage of the

device, and the last time a device of a particular type was accessed by the user.")

paragraph 0286), index data corresponding to identification data (("Classification can

also be improved with the use of incremental indexing that employs a moving window in

the classifier. This enables the classifier to be routinely refreshed, as old data is timed

out, and new data is brought in.") paragraph 0250), and a set of profile data (("FIG. 3

illustrates how notifications from various alert sources 60 can be tagged with an

urgency, importance, and/or priority value in a local user profile 64 stored at the

source.") paragraph 0088), the profile data being related to the identification data (("The

message class for a notification generated by a notification source indicates the type of

communication of the notification, such as e-mail, instant message, numerical financial

update, and desktop service, for example.") paragraph 0332) according to profile data

acquired in said storage unit. However, Horvitz fails to disclose user terminals, groups

of users, or sets of two or more user groups, data, and devices. DeSimone et al.

discloses a system and method for multiple asynchronous chat comprising a plurality of

users using client terminals, and multiple, and non-overlapping user groups (("In

accordance with one aspect of the present invention, a user maintains multiple

simultaneous real-time chat sessions with a plurality of other participants using a single

client residing on a personal computer, workstation or terminal (collectively,

"terminal").") column 2 lines 30-34 ("Still more particularly, aspects of the present

invention relate to systems and methods for establishing and maintaining multiple

simultaneous asynchronous message sessions between overlapping or non-

overlapping sets of users in data communications contexts, such as Internet chat

sessions.") column 1 lines 10-15 ("In other cases the session may include a group of

users such as those logged onto an on-line service or similar chat room, or included in a

"buddy list" maintained by a user.") column 3 lines 39-42). Therefore, it would have

been obvious to a person of ordinary skill in the art at the time the invention was made

to incorporate a system and method for multiple asynchronous chat comprising a

plurality of users using client terminals, and multiple, and non-overlapping user groups

as taught by DeSimone et al. with an apparatus for delivering information comprising a

storage unit for storing groups of data, identification data, index data corresponding to

identification data, and a set of profile data, the profile data being related to the

identification data as taught by Horvitz for the purpose of reducing notification

disruptions. However, Horvitz, as modified by DeSimone et al., fails to disclose a

method of determining an order of delivering updated first information. Shimada

discloses a system for distributing content data according to user-set content

distribution schedules wherein a delivery order is determined (("wherein said data

server further includes a database storing a plurality of priorities assigned to users of

said plurality of data terminals, said data server being further operable to access the stored priorities in determining an order of") Claim 5) on the basis of updating first information data (("The updating is accomplished by updated information distributed to the user in a form of being stored in the physical medium 10 and reproduced by such user, or downloaded from the server machine 4 as one event of the downloading schedule.") column 14 lines 10-14).

Therefore, it would have been obvious for a person of ordinary skill in the art at the time the invention was made to incorporate a system for distributing content data according to user-set content distribution schedules wherein a delivery order is determined on the basis of updating first information data as taught by Shimada with a method for multiple asynchronous chat comprising a plurality of users using client terminals, and multiple, and non-overlapping user groups and an apparatus for delivering information comprising a storage unit for storing groups of data, identification data, index data corresponding to identification data, and a set of profile data, the profile data being related to the identification data as taught by Horvitz, as modified by DeSimone et al., for the purpose of an information delivery method.

However, Horvitz, as modified by DeSimone et al. and Shimada, does not explicitly teach a means for determining an order of delivering the updated information data to the plurality of the second user terminals to the profile data acquired by reference to the second group of data in said storage unit when the first information data is updated.

Cook et al. discloses a personal digital content system wherein a distributor updates an end user's digital library identifying information, comprising a list of accurate consumer data that is transferred from a host computer to a personal computer. This reads on the claimed means for determining an order of delivering the updated information data to the plurality of the second user terminals to the profile data acquired by reference to the second group of data in said storage unit when the first information data is updated.

[Cook et al., column 3 line 49 - column 5 line 3]

As shown in FIG. 1, also stored on the central host computer (46) for use in advertising is consumer data (44) for each consumer registered to use the invention. The store of consumer data (44) comprises a database comprising information on every end user. The principal operational interface between the consumer and the invention is an Internet website (48) through which consumers' personal computers (86) are connected to a central host computer (46). Each consumer wishing to use the invention as a source of personal entertainment programming registers (74) by using the consumer's personal computer (86) to access the website (48) and submit (50) pertinent identifying information, demographic information, and personal preference information, all of which together is stored (52) as consumer data (44) on the central host computer (46). Examples of typical elements of consumer data, as shown on FIG. 4, include name (54), age (56), geographic location (58), income (60), gender (62), marital status (64), frequent flyer numbers (66), additional financial profile data (68), automobile preference (70), and any other useful information. The consumer data (44) will typically include also a listing of all track identification codes (72) for tracks stored in end user digital libraries (120).

As shown in FIG. 2, also stored in the master digital library (2) and in end user digital libraries (120) is attribute information for each track and ad, including for example, the artist's name (6), song title (8), album title (10), genre (12), song length (14), file format (16), bit rate (18), fade-in point

(20), fade-out point (22), track identification code (24), track
location (26), the encryption key (28) for the track or ad, and
a URL (30) pointing to another website where a consumer can
learn more about an ad or track. Header information, a subset of
the attribute information, typically travels with the track or
ad when the track or ad is distributed to consumers. Header
information typically includes information appropriate for
display while the ad or track is playing, including for example,
the artist's name (6), the song title (8), the album title (10),
and a URL (30) pointing to another pertinent website. Header
information is optionally encrypted.

Also shown in FIG. 1 as stored on the central host computer
(46) are schedules (6), digital computer database records
containing lists of events to be effected as sequential elements
of entertainment programming. Examples of events comprising
schedules, as shown in FIG. 3, are tracks (102, 104, 106, 108,
110, 112), ads (36, 37, 39), local insert breaks (38), recorded
announcements (40), and external events (42). Local insert
breaks, recorded announcements, and external events are optional
elements that can be inserted into schedules by users or
consumers. Schedules, tracks, and ads for play by consumers
preferably are stored on the consumers' personal computers.

As part of the invention, in a preferred embodiment, means
for comparing the schedule of digital content with an end user's
digital library, means for identifying digital content listed on
the schedule but missing from the end user's digital library,
and means for communicating with said master digital library to
obtain the digital content missing from the end user's digital
library can be implemented as shown in FIG. 5 through a software
agent called a distributor (78) that operates every time the
consumer logs onto the website (48) using a personal computer
(86). Distributors comprise at least one agent adapted to
perform distribution of digital content. Distributors also
comprise at least one agent to request schedules of digital
content The distributor can effect schedule distribution (79) by
identifying schedules ordered (80) by the consumer and delivers
(34) the schedules (32) via the Internet (84) to the consumer's
personal computer (86). If the schedules (32) were already
installed on the consumer's personal computer (86), the
distributor updates them (96).

The distributor can update tracks and ads (81) by reading
(88) from an end user digital library (120) the identifying
information for the tracks and ads required to fulfill the

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installed schedules (32) to determine whether the required
tracks and sectors are installed on the consumer's personal
computer (86). If the required tracks are not installed on the
consumer's personal computer (86), the distributor retrieves
(90) required tracks and ads from the master digital library (2)
and delivers them (92) via the Internet to the end user digital
library (120) on the consumer's personal computer (86). The
distributor then updates (94) the consumer data (44) so that the
current listing in the consumer data (44) of tracks stored on
the consumer's personal computer (86) is accurate. At play time,
therefore, all tracks and ads needed to execute a schedule, as
well as the updated form of the schedule itself, are typically
available on the consumer's personal computer (86), and an
accurate list of the tracks stored on the consumer's personal
computer (86) is included within the centrally-stored consumer
data (44).
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Horvitz, as modified by DeSimone et al. and Shimada, discloses a prior art

system for distributing content data according to user-set content distribution schedules

wherein a delivery order is determined on the basis of updating first information data,

and a method for multiple asynchronous chat comprising a plurality of users using client

terminals, and multiple, and non-overlapping user groups and an apparatus for

delivering information comprising a storage unit for storing groups of data, identification

data, index data corresponding to identification data, and a set of profile data, the profile

data being related to the identification data upon which the claimed invention (closure

hooks on each closure panel) can be seen as an improvement.

Cook et al. teaches a prior art comparable means for determining an order of

delivering the updated information data to the plurality of the second user terminals to

the profile data acquired by reference to the second group of data in said storage unit

when the first information data is updated.

Thus, the manner of enhancing a particular device (means for determining an

order of delivering the updated information data to the plurality of the second user

terminals to the profile data acquired by reference to the second group of data in said

storage unit when the first information data is updated) was made part of the ordinary

capabilities of one skilled in the art based upon the teaching of such improvement in

Cook et al. Accordingly, one of ordinary skill in the art would have been capable of

applying this known improvement technique in the same manner to the prior art system

for distributing content data according to user-set content distribution schedules wherein

a delivery order is determined on the basis of updating first information data, and a

method for multiple asynchronous chat comprising a plurality of users using client

terminals, and multiple, and non-overlapping user groups and an apparatus for

delivering information comprising a storage unit for storing groups of data, identification

data, index data corresponding to identification data, and a set of profile data, the profile

data being related to the identification data of Horvitz, as modified by DeSimone et al.

and Shimada, and the results would have been predictable to one of ordinary skill in the

art, namely, one skilled in the art would have readily recognized a system and method

of a personal digital content system.

12.   Claims 2 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Horvitz (US 20020087649 A1) in view of DeSimone et al. (US 6212548 B1) in further

view of Shimada (US 7203760 B2) and in further view of Kall (US 20040180669 A1).

Consider claims 2 and 4, and as applied to claims 1 and 2, respectively. Horvitz, as modified by DeSimone et al. and Shimada, discloses an apparatus for delivering information. However, Horvitz, as modified by DeSimone et al. and Shimada, fails to disclose an apparatus for delivering information comprising restrictions on update information. Kall discloses a telecommunications system comprising the quality of service level parameters of accuracy, update frequency, time stamp, time-to-first-fix, reliability, and continuity (("It may be possible for the LCS client 8 to specify or negotiate a (minimum) level of quality, such as accuracy, in a station location information request. Different applications demand different levels of positioning accuracy and other positioning performance parameters, so the levels of performance should be classified according to the type of applications. The quality of location information can involve parameters like accuracy, update frequency, time stamp, time-to-first-fix, reliability, continuity, etc. The quality of the generated location information can exceed the required level. In case location information is not available to the required quality level, the request can either be denied and the service execution terminated, or the user accepts the lower quality information. The quality level requirement of each service (application) could be set both by the subscriber and the service provider.") paragraph 0042).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to incorporate a telecommunications system comprising the quality of service level parameters of accuracy, update frequency, time

stamp, time-to-first-fix, reliability, and continuity as taught by Kall with an apparatus for

delivering information as taught by Horvitz, as modified by DeSimone et al. and

Shimada, for the purpose of dynamic updating.

13.   Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Horvitz

(US 20020087649 A1) in view of DeSimone et al. (US 6212548 B1) in further view of

Shimada (US 7203760 B2) and in further view of Crandall (US 20020029291 A1).

Consider claim 3, and as applied to claim 1 above. Horvitz, as modified by

DeSimone et al. and Shimada, discloses an apparatus for delivering information.

However, Horvitz, as modified by DeSimone et al. and Shimada, fails to disclose an

apparatus for delivering information comprising restrictions on first update information or

delivery order thereof. Crandall discloses an active requesting of information device

comprising newsfeeds that watch timestamps and, when they are delivered, are

delivered in reference to the sequence of the previous command (("The command

sequence 500 may be as long as desired, and may include commands for reproducing

information that has not yet been stored. For example, the command sequence 500

includes the "news" command 522 for reproducing news information from the storage

device 400 on Day 461 of programming, but it is obvious that, at the time the command

sequence 500 is sent, the news for Day 461 is not yet known. Therefore, the "news"

storage portion of the macro portion 440 of the storage device 400 will be updated with

fresh news information for Day 461 at some time prior to 6:00 AM on Day 461, for

example, and then this updated information will be reproduced at 6:00 AM on Day 461

based on the previously transmitted command sequence.") paragraph 0077).

Therefore, it would have been obvious to a person of ordinary skill in the art at

the time the invention was made to incorporate an active requesting of information

device comprising newsfeeds that watch timestamps and, when they are delivered, are

delivered in reference to the sequence of the previous command as taught by Crandall

with an apparatus for delivering information as taught by Horvitz, as modified by

DeSimone et al. and Shimada, for the purpose of sequential and current data in a

communications system.

14.   Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Horvitz

(US 20020087649 A1) in view of DeSimone et al. (US 6212548 B1) in further view of

Shimada (US 7203760 B2) and in further view of Schneider (US 6442549 B1).

Consider claim 5, and as applied to claim 1 above. Horvitz, as modified by

DeSimone et al. and Shimada, discloses an apparatus for delivering information.

However, Horvitz, as modified by DeSimone et al. and Shimada, fails to disclose an

apparatus for delivering information comprising means for adding a datum responsive to

the order to the updated first information data. Schneider discloses a system and

method for processing reusable information wherein data is appended, updated,

deleted, or expired in reference to TTL, expiration date, or renewal date (("At this point,

the subscriber 96 can operate the computer system 32 and execute the program 34 to

either combine a current data file 142 with the control data 126 or to configure, query,

browse, select, report, archive, order, or hyperlink from the master premature expired

database 140 and connect to a network such as the Internet 144 or other on-line

services via the transceiver 92 of the computer system 32 to view a selected document

image and send order or other information to the provider 94. The first 120 and

subsequent deliveries 122 of FIG. 4a represent information sent during a given

subscription period. A subscription period is the time it takes to send a new first delivery

120 of information. For instance, if a portable storage media 136 is updated and sent

quarterly, the subscription period is three months. More than three months of data files

30 of patent information that have the potential to prematurely expire are placed on the

portable storage media 136 so there is no lapse in coverage for creating indexed

databases of newly available information 130 while the portable storage media 136 for

the next subscription period is being sent.") column 17 lines 34-53 ("Conventionally, a

cache is used to speed data access by ranking data on criteria such as frequency of

use, last use, time-to-live (TTL) or expiration period etc. When it is determined new data

is to be cached while the cache is full, the new data is appended and data that has

expired, seldom been accessed, or not accessed within a given duration is deleted. The

long-term cache of the present invention, however, functions in a reverse model by

placing priority on data that has remained in the cache longer. Data is arranged by TTL,

expiration date, or renewal date and more priority is placed on data as the TTL,

expiration, or renewal date approaches. The present invention is applicable to caching

wherein at subsequent intervals a compiled subset of a cache takes upon new use

independent from the use of the original cache.") column 18 lines 27-41).

Therefore, it would have been obvious to a person of ordinary skill in the art at

the time the invention was made to incorporate a system and method for processing

reusable information wherein data is appended, updated, deleted, or expired in

reference to TTL, expiration date, or renewal date as taught by Schneider with an

apparatus for delivering information as taught by Horvitz, as modified by DeSimone et

al. and Shimada, for the purpose of monitoring identifiers for information availability.

15.   Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Horvitz

(US 20020087649 A1) in view of DeSimone et al. (US 6212548 B1) in further view of

Shimada (US 7203760 B2) and in further view of Hoshi et al. (US 6980977 B2).

Consider claim 7, and as applied to claim 1 above. Horvitz, as modified by

DeSimone et al. and Shimada, discloses an apparatus comprising a datum responsive

to the order in which the first information was delivered to the user terminal, a datum

responsive to a frequency of updating information transmitted from the user terminal, a

datum of a location datum of the user terminal, and a datum responsive to a type of the

user terminal (("Referring now to FIG. 2, a notification preference profile 20 and a

notification schema 50 associated with the sources 12-16 are illustrated in accordance

with an aspect of the present invention. As illustrated, the notification preferences profile 20 includes rules and policies for assigning priority values to notifications based upon the notification schema 50. The notification schema 50 defines attributes and values associated with a respective source 12-16. These values within the schema 50 can include a notification class, a source identifier, a source assigned priority value, sender information, target information, message content components, associated notification context, and/or other attributes. Based upon values defined in the schema 50, the notification preferences profile 20 can be configured to provide a determination as to the delivery of notifications from notification sources to notifications sinks.") Horvitz, paragraph 0073 ("The notification schema 50 described above can be provided by a service provider of information that defines attributes and elements for intelligent routing of notifications. The schema 50 can include a notification header defining a notification class, title, and subscription identification (ID). Additionally, notifications can be stamped with a unique ID and time of receipt. Schema information can include whether the notifications were generated by an automated agent or person. The header information can also include volatility information such as time to live and replaceability via a notification update, and also can include whether the notification is replaceable with the same title, class or other designation.") Horvitz, paragraph 0083 ("According to another aspect of the present invention, a notification platform 317 can be employed in conjunction with the priorities system 312 to direct prioritized messages to one or more notification sinks accessible to users. As will be described in more detail below, the notification platform 317 can be adapted to receive the prioritized messages 316 and

make decisions regarding when, where, and how to notify the user, for example. As an

example, the notification platform 317 can determine a communications modality (e.g.,

current notification sink 318 of the user such as a cell phone, or Personal Digital

Assistant (PDA)) and likely location and/or likely focus of attention of the user. If a high

importance e-mail were received, for example, the notification platform 317 can

determine the users location/focus and direct/reformat the message to the notification

sink 318 associated with the user. If a lower priority message 316 were received, the

notification platform 317 can be configured to leave the e-mail in the user's in-box for

later review as desired, for example. As will be described in more detail below, other

routing and/or alerting systems 319 may be utilized to direct prioritized messages 316 to

users and/or other systems.") Horvitz, paragraph 0125). However, Horvitz, as modified

by DeSimone et al. and Shimada, fails to disclose a system or method comprising user

status, user history, time stamping of information updates, or receipt of funds for use of

information. Hoshi et al. discloses a system for acquiring and analyzing personal profile

data comprising user status and history (("In yet another aspect of the present invention,

an operation logging, analyzing and communication unit is located between the remote

controller and remote-controlled devices, in order to precisely know the status and

operation history of such devices as the VCR 4 and television 5 being remote

controlled. Thus, the system is configured so that the operation logging, analyzing and

communication unit relays signals from the remote controller to the remote-controlled

devices.") column 5 lines 1-9 ("The system service section 9 successively updates user

profile data and bills advertiser, according to a record of clicks by each user 2 on

advertisement content or a record of product purchases.") column 8 lines 26-29),

individual user profile updates according to time (("The system service section 9 also

reproduces the profile of each individual user to update personal profiles that the node

11 maintains, in order to cope with variations in the personal profiles with time.") column

12 lines 9-12) and a method to pay for system access (("The terminal devices 7 and 8

for system users sign contracts with the system service section 9 regarding the quality

of service provided by the system service section 9, acquire the right of access to users

2 having profiles desired by the terminal devices 7 and 8 for system users and the right

to use a given method of access, and pay costs for the services.") column 6 lines 16-

22).

Therefore, it would have been obvious to a person of ordinary skill in the art at

the time the invention was made to incorporate a system and method comprising user

status, user history, time stamping of information updates, and receipt of funds for use

of information as taught by Hoshi et al. with an apparatus comprising a datum

responsive to the order in which the first information was delivered to the user terminal,

a datum responsive to a frequency of updating information transmitted from the user

terminal, a datum of a location datum of the user terminal, and a datum responsive to a

type of the user terminal as taught by Horvitz, as modified by DeSimone et al. and

Shimada, for the purpose of exchanging current and stored information of users in a

communications environment.

16.   Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Horvitz

(US 20020087649 A1) in view of DeSimone et al. (US 6212548 B1) in further view of

Shimada (US 7203760 B2) and in further view of Erdelyi (US 6631522 B1).

        Consider claim 8, and as applied to claim 1 above. Horvitz, as modified by

DeSimone et al. and Shimada, discloses an apparatus comprising a plurality of

information data which are different each other (("In a data network comprising a

plurality of nodes, at least some of which nodes are connected to terminals, each

terminal associated with a user, a method for communicating between users in a

plurality of simultaneous text chat conversations, each chat conversation comprising a

selected plurality of said users (participants) to the exclusion of other non-participant

users, the method comprising, separately for each of said plurality of simultaneous text

chat conversations, …") DeSimone et al., claim 1). However, Horvitz, as modified by

DeSimone et al. and Shimada, fails to disclose a system wherein each information data

is assigned to an order, and the information data is delivered to a user terminal

corresponding to the order. Erdelyi discloses a method and system for indexing, sorting,

and displaying a video database comprising data assigned to an order and an

identification (("The User can select, review, and edit some or all user preferences using

the User Preferences GUI. For example, the User can designate the playing order of the

clips, the number of games to be searched 352, whether the footage is to be delivered

in chronological or reverse chronological order 354, change a password, select the first

screen view, and choose the default camera angle.") column 11 lines 34-40 ("The

software application that is used to generate the ECL automatically assigns sequential

clip identification (Clip ID) numbers 390 to each consecutive numbered clip 392. The

first encoder then determines the In and Out points that define the beginning and end of

each clip, and assigns a file name to each clip.") column 12 lines 64-67 and column 13

lines 1-2).

Therefore, it would have been obvious to a person of ordinary skill in the art at

the time the invention was made to incorporate a method and system for indexing,

sorting, and displaying a video database comprising data assigned to an order and an

identification as taught by Erdelyi with an apparatus comprising a plurality of information

data which are different each other as taught by Horvitz, as modified by DeSimone et al.

and Shimada, for the purpose of user selectable information in wireless devices.

17.   Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Park et al.

(US 7158805 B1) in view of Erdelyi (US 6631522 B1) and in further view of Shimada

(US 7203760 B2).

Consider claim 9. Park et al. discloses a method of information delivery

comprising the steps of: receiving information from a user terminal (("… a system

control unit for controlling changed concise information, detailed information, or key

information sent from one of the plurality of information and telecommunications

terminals to be stored in the system memory unit corresponding to the user, reading

information stored in the system memory units based on the key information, and

sending the information to information and telecommunications terminals of all other

parties.") column 2 lines 20-28), obtaining identification information for identifying a user

terminal to which the information is delivered (("… said subscriber system automatically

sends information related to said identifying numbers to a user's information and

telecommunications terminal, …") claim 10), obtaining profile information from a user

terminal that requires to be delivered the information (("… information items: a profile, a

working field, greeting, a moving picture or a voice data for introducing the user, a user

hobbies, user merits, user interests, a user diverse information item, a bulletin board, or

one or more information items used for expressing a user's mood, look, emotion, or

information related to certain gifts or actions, or information for expressing an index of

amiableness with another party, or information on various natural environment, or

information on user quizzes.") claim 11), and receiving the information updated (("An

example non-limiting illustrative implementation of the system and method disclosed

herein includes a system for exchanging information among users, and a system for

automatically updating changed information in storage devices of all telecommunication

terminals of a subscriber system that exchanged information with a particular user,

when changes occur in diverse information or key information related to that particular

user.") column 1 lines 53-60). However, Park et al. fails to disclose a method for

indexing, sorting, or displaying a video database comprising indexing information in a

database, or storing user attribute information in a profile. Erdelyi discloses a method

and system for indexing, sorting, and displaying a video database comprising indexing

information in a database, and storing user attribute information in a profile (("The

present invention provides a method and system for indexing, sorting, and displaying a

video database. The preferred embodiment of the present invention is adapted for use

in indexing the video display of one or more sporting events, such as a season of

league football games. However, it is readily apparent that the method and system

according to the present invention can also be used to index, sort, and display video

recordings of other types of events, including but not limited to theatrical performances,

musical events, or political speeches.") column 4 lines 33-43 ("The present invention

includes hardware and software components, and implements a novel encoding

process to provide a searchable video and informational database. The present

invention can be implemented using any suitable computer system, including one or

more personal computers, a "dumb" terminal, a network of interconnected computers, a

personal digital assistant, an intranet system, or the Internet. In addition, the present

invention uses at least one database to store the video database, as well as any other

information to be indexed thereto. In the preferred embodiment of the present invention,

five encoding levels are used to enter data into at least one searchable computer

database. An intelligent scene detection process can also be used to automate any or

all of the encoding processes. Each encoder and the User use specially configured

graphical user interfaces (GUI s) to access the system.") column 2 lines 15-30 ("The

statistical information database stores profile information for each player. The fifth

encoder monitors and edits this information. Player profile information can include, but

is not limited to position 533, status 534, age (not shown), weight 536, height 538,

speed 540, experience 542, college (not shown), date of birth 544, agent (not shown),

last team (not shown), salary requirements 546, injury history 548, home town 552,

home phone 554, overall rating 556, and intra-league activity reports 550. The players

statistics (Statistics) 560, name plate 562, and photo 564 can also be displayed.")

column 21 lines 41-51 ("The User can select, review, and edit some or all user

preferences using the User Preferences GUI. For example, the User can designate the

playing order of the clips, the number of games to be searched 352, whether the

footage is to be delivered in chronological or reverse chronological order 354, change a

password, select the first screen view, and choose the default camera angle.") column

11 lines 34-40 ("Each tape track is then divided into a series of consecutive clips. A clip

is a tape segment of a predetermined event. For example, each play of a football game

videotape can be designated as a separate clip. A file naming protocol known as Clip ID

is used to index each clip in the video database (2005).") column 12 lines 14-20).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time

the invention was made to incorporate a method and system for indexing, sorting, and

displaying a video database comprising indexing information in a database, and storing

user attribute information in a profile as taught by Erdelyi with a method of information

delivery comprising the steps of: receiving information from a user terminal, obtaining

identification information for identifying a user terminal to which the information is

delivered, obtaining profile information from a user terminal that requires to be delivered

the information, and receiving the information updated as taught by Park et al. for the

purpose of exchanging, indexing, and sorting communications messaging. However,

Park et al., as modified by Erdelyi, fails to disclose a method of determining the order in which video clips are retrieved. Shimada discloses a system for distributing content data according to user-set content distribution schedules wherein a delivery order is determined (("wherein said data server further includes a database storing a plurality of priorities assigned to users of said plurality of data terminals, said data server being further operable to access the stored priorities in determining an order of") Claim 5) on the basis of updating first information data (("The updating is accomplished by updated information distributed to the user in a form of being stored in the physical medium 10 and reproduced by such user, or downloaded from the server machine 4 as one event of the downloading schedule.") column 14 lines 10-14).

Therefore, it would have been obvious for a person of ordinary skill in the art at the time the invention was made to incorporate a system for distributing content data according to user-set content distribution schedules wherein a delivery order is determined on the basis of updating first information data as taught by Shimada with a method for indexing, sorting, and displaying a video database comprising indexing information in a database, and storing user attribute information in a profile and a method of information delivery comprising the steps of: receiving information from a user terminal, obtaining identification information for identifying a user terminal to which the information is delivered, obtaining profile information from a user terminal that requires to be delivered the information, and receiving the information updated as taught by Park et al., as modified by Erdelyi, for the purpose of an information delivery method.

18.   Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Park et

al. (US 7158805 B1) in view of Erdelyi (US 6631522 B1) in further view of Shimada (US

7203760 B2) and in further view of Hoshi et al. (US 6980977 B2).

Consider claim 10 and as applied to claim 9 above. Park et al., as modified by

Shimada, discloses a telecommunications system and terminal apparatus comprising a

location (read as positional) function of a terminal (("For example, when a user carrying

an information and telecommunications terminals gets into the car or an information and

telecommunications terminal is in the car, a variety of data on speed, location, break

state, engine state, and other states of the car's operation are sent to the information

and telecommunications terminal.") Park et al., column 14 lines 63-67 and column 15

line 1). However, Park et al., as modified by Shimada, fails to disclose a system or

method comprising terminal type, information delivery order, or frequency of information

updates. Erdelyi discloses a method and system for indexing, sorting, and displaying a

video database comprising terminal type (("Activity, Camera, and Injury buttons 272,

274, 276 are provided in the Video Screen Box 250 to allow the User to select among

the types of displays to be shown in the viewing screen. In the preferred embodiment,

the Activity Screen (not shown) is the default screen display.") column 9 lines 9-14),

information delivery order (("For example, the User can designate the playing order of

the clips, the number of games to be searched 352, whether the footage is to be

delivered in chronological or reverse chronological order 354, change a password,

select the first screen view, and choose the default camera angle.") column 11 lines 35-40), and frequency of information updating ((``... databases are preferably updated 605 on a periodic basis. These updates can be performed by either a human encoder, or automatically by a computer.") column 22 lines 28-30). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to incorporate a system and method comprising terminal type, information delivery order, and frequency of information updates as taught by Erdelyi with a telecommunications system and terminal apparatus comprising a location function of a terminal as taught by Park et al., as modified by Shimada, for the purpose of a system and method for acquiring and sorting communication messages. However, Park et al., as modified by Shimada and Erdelyi, fails to disclose a system or method comprising user status, user history, time stamping of information updates, or receipt of funds for use of information. Hoshi et al. discloses a system for acquiring and analyzing personal profile data comprising user status and history ((``In yet another aspect of the present invention, an operation logging, analyzing and communication unit is located between the remote controller and remote-controlled devices, in order to precisely know the status and operation history of such devices as the VCR 4 and television 5 being remote controlled. Thus, the system is configured so that the operation logging, analyzing and communication unit relays signals from the remote controller to the remote-controlled devices.") column 5 lines 1-9 ("The system service section 9 successively updates user profile data and bills advertiser, according to a record of clicks by each user 2 on advertisement content or a record of product purchases.") column 8 lines 26-29),

individual user profile updates according to time (("The system service section 9 also reproduces the profile of each individual user to update personal profiles that the node 11 maintains, in order to cope with variations in the personal profiles with time.") column 12 lines 9-12) and a method to pay for system access (("The terminal devices 7 and 8 for system users sign contracts with the system service section 9 regarding the quality of service provided by the system service section 9, acquire the right of access to users 2 having profiles desired by the terminal devices 7 and 8 for system users and the right to use a given method of access, and pay costs for the services.") column 6 lines 16-22).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to incorporate a system and method comprising user status, user history, time stamping of information updates, and receipt of funds for use of information as taught by Hoshi et al. with a telecommunications system and terminal apparatus comprising a location function of a terminal, terminal type, information delivery order, and frequency of information updates as taught by Park et al., as modified by Shimada and Erdelyi, for the purpose of exchanging current and stored information of users in a communications environment.

Response to Arguments

19.   Applicant's arguments filed 13 July 2009 with respect to claim 1 have been considered but are moot in view of the new ground(s) of rejection.

20.   Applicant's arguments filed 13 July 2009 with respect to claim 9 have been

considered but are not persuasive.

        Applicant' Representative argues that Horvitz in view of DeSimone et al. and

further in view of Shimada fails to teach means for determining an order of delivering

the updated information data to the second user terminal according to the profile data

acquired by reference to the second group of data in said storage unit when the first

information data is updated.

        Examiner respectfully disagrees. Horvitz in view of DeSimone et al. and further in

view of Shimada discloses a system and method comprising a means for determining

an order of delivering updated information data (("The system as claimed in claim 1,

wherein said data server further includes a database storing a plurality of priorities

assigned to users of said plurality of data terminals, said data server being further

operable to access the stored priorities in determining an order of distribution.") Claim 5

("The system as claimed in claim 5, wherein the plurality of priorities includes a first

priority and a second priority and when said data server determines that the electronic

data network is congested, said data server is operable to distribute the content data in

the order of distribution to a first set of said plurality of data terminals used by users

assigned a first priority before said data server distributes the content data to a second

set of said plurality of data terminals used by users assigned a second priority.") Claim

6) to a second user terminal according to profile data acquired by reference to a second

group of data in a storage unit when the first information data is updated (("based on

said first sequences of messages, updating the status of said first window at each of

said first set of terminals") DeSimone et al., Claims 8 and 12 ("The HDD 16 stores

system programs such as "downloader" and "extractor", and a predetermined user

application program. The "downloader" is a program for downloading various content

data by communicating with the server machine 4 on the network NW. The "extractor" is

also a program for decoding the various content data downloaded in an archived

manner into a predetermined region of the HDD 16. The communication card slot 15 is

a high-speed interface allowing insertional connection of a communication card 17 for

telephone line or a communication card 20 for mobile phone. The communication card

17 for telephone line can be connected to a telephone line provided for a user's home

via a modular cable 18 and a modular jack 19, by which wire communication is

established between the domestic client terminal device 2 and the server machine 4. On

the other hand, the communication card 20 for mobile phone can be connected to a

mobile phone 22 via a communication cable 21, by which wireless communication is

established between the domestic client terminal device 2 and the server machine 4.")

column 3 lines 39-60).

Conclusion

21.   Any response to this Office Action should be faxed to (571) 273-8300 or mailed

to:

Commissioner for Patents

P.O. Box 1450
Alexandria, VA 22313-1450

Hand-delivered responses should be brought to

Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Mark Fearer whose telephone number is (571) 270-1770. The Examiner can normally be reached on Monday-Thursday from 7:30am to 5:00pm.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Tonia Dollinger can be reached on (571) 272-4170. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free) or 571-272-4100.

Any inquiry of a general nature or relating to the status of this application or

proceeding should be directed to the receptionist/customer service whose telephone

number is (571) 272-2600.

Mark Fearer
/M.D.F./
September 17, 2009

/George C Neurauter, Jr./
Primary Examiner, Art Unit 2443